

Appl. No. : 09/997,310
Filed : November 28, 2001

REMARKS

This communication is responsive to an August 12, 2004 Office Action. With this amendment, Claims 1, 3-9, 12, 14-20, 23-36 and 38-48 are pending in this application. Applicants gratefully acknowledge allowance of Claims 27-35. Claims 2, 10, 11, 17 and 37, although objected to as being dependent upon rejected base claims, were also indicated as being allowable if rewritten in independent form. New independent Claims 38, 41, 44, 45 and 46 correspond to claims 2, 10, 11, 17 and 37, respectively.

Claims 12, 14-16, 18, 20, 21, 23, 24, 26 and 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,713,741 to Miller (hereinafter "Miller"). Claims 1, 3-7 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,058,493 to Basek et al. (hereinafter "Basek") in view of in view of Miller. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of in view of U.S. Patent 5,779,032 to Iimura et al. (hereinafter "Iimura").

Summary of Interview

Applicants would like to thank Examiner McCloud and Examiner Martin for the courtesies extended to Applicant John Ziegenhorn and Applicants' counsel William B. Bunker, in a December 16, 2004 interview. In accordance with MPEP § 713.04, a summary of the interview follows. A video presentation of a working embodiment was presented. Miller and Basek were discussed, and agreement was reached that amendments claiming opening and closing the cover during cooking would overcome the rejections to Claims 1 and 12.

New Claims

Newly added dependent claims 47 and 48 depend from Claim 1 and recite additional features not found in the prior art.

Newly added independent Claims 38 and 41 correspond to dependent Claims 2 and 17, respectively, as previously presented in an October 20, 2003 Response to Office Action. By placing the claims in independent form, Applicants believe the objections from the January 24, 2004 Office Action are overcome.

Newly added independent Claims 44, 45 and 46 correspond to dependent Claims 10, 11 and 37, respectively, as presented in a May 21, 2004 Amendment. By placing the claims in independent form, Applicants believe the objections to these claims are overcome.

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Dependent claims 2, 10, 11, 17 and 37 are canceled with this amendment.

Amendments

Claims 12, 14-16, 18, 20, 21, 23, 24, 26 and 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by Miller. Claims 1, 3-7 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Basek in view of Miller. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Jimura.

Applicants respectfully traverse the rejections. Miller discloses a "programmable logic center operable to *prevent the oven heat source from heating* the at least one food item *when* either the entrance door or the exit door is in one of the plurality of *open* positions." Miller at 3:48-51; *see also* 4:38-42; 2:10-22. Miller teaches away from adjusting the size of the opening during cooking, and there would be no motivation to combine the teachings of Miller with either Basek or Jimura. In addition, an entrance door or an exit door as disclosed in Miller does not anticipate, for example, a cover that provides a hollow chamber having an adjustable opening or a motor coupled to the cover.

Applicants have amended the claims as discussed during the interview, and canceled Claim 21. It is believed that all outstanding rejections are overcome, and Applicants respectfully submit that the application is in condition for allowance. Although these amendments are believed to overcome the outstanding rejections, Applicants reserve the right to swear behind the filing date of Miller, thereby removing it as a prior art reference under 35 U.S.C. § 102(e).

Applicants also made minor amendments to Claims 9, 20 and 28.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In view of the foregoing amendments and remarks, Applicants submit that the claims are patentably distinct from the cited art, and respectfully request reconsideration and withdrawal of the outstanding rejections.

Arguments made with respect to specified claims apply only to those claims in this application and not other currently pending or later added claims in this or other applications. The amendment of a claim is not to be construed as acquiescence or admission that the cited art discloses the claim as previously read, and Applicants reserve the right to pursue such claims in a continuation or divisional application. Applicants traverse the original objections but have amended the claims in an effort to advance prosecution. Patentability is based on the claim as a whole, notwithstanding only a portion thereof is argued in support of novelty or non-obviousness. Any claim amendments that are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without entry of such amendments.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned attorney of record at his direct dial number of (949) 721-2961.

Respectfully submitted,

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Dated: January 7, 2005

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